

APPLICANTS' ELECTION

Applicants hereby elect the species of **pulmonary hypertension** for purposes of further examination.

REMARKS

Interview Summary

Applicants conducted a Telephonic Interview with Examiner Diana Johannsen on May 28, 2009. Participating in the Telephonic Interview with Examiner Johannsen were applicants' attorney of record, Arles A. Taylor, Jr., and patent agent Leon R. Legleiter. Applicants sincerely appreciate Examiner Johannsen's time and consideration in agreeing to and participating in the Telephonic Interview.

During the Telephonic Interview, the outstanding Species Election Requirement was discussed. Possible claim amendments and responses to the election requirement were discussed. Applicants respectfully submit that that the Election and Remarks presented herein are believed to be consistent with their understanding of Examiner Johannsen's position as presented during the Telephonic Interview.

Response to Office Communication of November 6, 2009

The Office Communication dated November 6, 2009 indicated that the Restriction/Election Requirement response filed August 17, 2009 was not fully responsive because it allegedly failed to include a summary of the telephonic interview of May 28, 2009. The Patent Office asks for correction of the non-compliance.

Applicants have included herein a summary of the interview of May 28, 2009. Accordingly, applicants submit herewith an updated Restriction/Election Requirement response which includes an interview summary.

Applicants therefore respectfully submit that the Restriction/Election Requirement response is believed to be fully responsive.

Response to Restriction/Election Requirement of April 15, 2009

Claims 1, 2, 4-6, 8-10, 19, 21-23, 26, 28-29, 34-36 and 38-42 are now pending in the subject U.S. patent application. Claims 1, 2, 4-6, 8-10, 19, 21-23, 26, 28-29, 34-36 and 38-42 have been subjected to a Restriction/Election Requirement, wherein an election of a species of disorder/environmental stimulus is required.

In response to the Restriction/Election Requirement, applicants have elected **pulmonary hypertension** as the disorder. It is believed that claims 1, 2, 4-5, 8-10, 19, 21-23, 26, 28-29, 35, 38-40 and 42 read on the elected subject matter. While applicants are electing pulmonary hypertension for purposes of further examination, applicants respectfully submit that it would not be an undue burden for the claims to be examined to the extent that cardiac surgery can be associated with pulmonary hypertension.

Applicants hereby reserve the right to file one or more divisional patent applications directed to the unelected subject matter.

Applicants respectfully submit that the election of the above-mentioned representative species does not place an undue burden on the Examiner to perform a complete search of the defined areas. The present species elections are made without traverse to the extent that it is understood that, upon the finding of an allowable species,

examination will continue until all species have been examined, or a non-allowable species is found, all in accordance with the procedures set forth in M.P.E.P. § 803.02.

CONCLUSIONS

Should there be any minor issues outstanding in this matter, the Examiner is respectfully requested to telephone the undersigned attorney. Early passage of the subject application to issue is earnestly solicited.

DEPOSIT ACCOUNT

The Commissioner is hereby authorized to charge any fees associated with the filing of this correspondence to Deposit Account Number 50-0426.

Respectfully submitted,

JENKINS, WILSON, TAYLOR & HUNT, P.A.

Date: 11/17/2009

By: 

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